

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-120

March 21, 2000

CENTRAL MAINE POWER COMPANY
Easements and Consents to Bangor Gas
LLC to Replace Natural Gas Transmission
Line in Bucksport, Maine

ORDER AUTHORIZING
EASEMENT IN
TRANSMISSION LINE
CORRIDOR

I. SUMMARY

We authorize Central Maine Power Company (CMP) to grant an easement to Bangor Gas Company, L.L.C. to place a natural gas transmission pipeline in a transmission line corridor in Bucksport, Maine. We order CMP to defer on its books the revenue received for its easement. In a later proceeding we will determine the proper ratemaking for the easement revenue.

II. BACKGROUND

On February 3, 2000, Central Maine Power Company (CMP) requested a Commission determination concerning a conveyance by CMP of an easement to Bangor Gas Company, L.L.C. to place a natural gas transmission pipeline on a transmission line corridor in Bucksport, Maine. CMP states that it believes that Commission authorization is not required under 35-A M.R.S.A. § 1101 because the rights granted to Bangor Gas will not materially affect CMP's ability to perform its duties to the public. CMP asks the Commission to certify pursuant to § 1101(4) that Commission approval is not required. As an alternative, if the Commission determines that approval under § 1101 is required, CMP asks that the Commission approve its conveyance to Bangor Gas.

In an affidavit submitted by CMP Senior Transmission Engineer Lee Blake, CMP states that the easement granted to Bangor Gas is located entirely within 20 feet of the edge of CMP's transmission line corridor. Mr. Blake explains that the Company's transmission line standards do not allow transmission line poles or towers within 20 feet of the edge of the corridor. Moreover, the proposed easement permits CMP to locate certain structures in, on or over the property burdened by the easement, as long as CMP does not unreasonably interfere with the operations or maintenance of the pipeline. CMP asserts, therefore, that granting the easement will not materially affect CMP's ability to perform its duties to the public.

III. DECISION

There has been some recent controversy about whether easements for parallel facilities in electric corridors granted to gas pipelines by electric utilities¹ have to be authorized by the Commission pursuant to 35-A M.R.S.A. § 1101(1) or, if the easements do not materially affect the ability of the utility to perform its public duties, certified as exempt from the authorization requirement pursuant to 35-A M.R.S.A. § 1101(4). In *Central Maine Power Company and CMP Natural Gas, L.L.C.*, Docket No. 99-739 (Dec. 16, 1999), the Examiner preliminarily ruled that section 1101 authorization was required in a similar easement request by CMP. In a later order, the Commission granted section 1101 authority to CMP to grant the easement. It appears that CMP did not contest the preliminary ruling by the Examiner, and therefore the section 1101 authority question was not raised as an issue in the Examiner's Report, exceptions or Commission order.

CMP and Bangor Gas seek expedited processing of CMP's request. In order to accommodate the request for expedited review, we will follow our existing precedent to require section 1101(1) authorization for gas pipeline easements in a T&D utility's transmission line corridor. Otherwise, we would grant the opportunity for others, such as the OPA, to be heard on the question and provide an opportunity for responses, before the Commission would carefully review the matter and decide the issue.² By accepting CMP's alternative request for § 1101(1) authority, we can accommodate CMP and Bangor Gas's request to expedite our processing of the case.

We accept the statements of Mr. Blake concerning CMP's use of the right of way. CMP's grant of the easement to Bangor Gas is consistent with the public interest, and therefore we authorize CMP to grant the easement to Bangor Gas.

We have not reviewed, and will defer until a later rate proceeding or incentive rate investigation, the reasonableness of the consideration received by CMP for the sale of the easement. We likewise defer the issue of the proper ratemaking treatment for the money received by CMP from Bangor Gas. Until we decide the proper ratemaking treatment for the sale of this real estate property interest, we order CMP to defer the revenue received from Bangor Gas in the proper balance sheet account on its regulatory books of account.

¹ As of March 1, 2000, electric utilities are no longer defined to be, or regulated as, public utilities. Transmission and distribution (T&D) utilities have replaced electric utilities in the definition of public utility.

² As we are inclined to require section 1101(4) certification requests to be processed on a case-by-case basis in order to specifically review the use of each transmission corridor, there may be little difference in processing a section 1101(1) request from a section 1101(4) certification.

Accordingly, it is

O R D E R E D

That Central Maine Power Company is authorized to grant an easement to Bangor Gas Company, L.L.C. as described in this Order.

Dated at Augusta, Maine, this 21st day of March, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.